

DAE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
927-001

First named inventor: Diane Nerby

Application No.: 10/678,048

Art Unit: 2171

Filed: 10/02/2003

Examiner: TBD

Title: ONLINE EMPLOYEE ASSESSMENT AND MANAGEMENT PERFORMANCE SYSTEM AND METHOD

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☒ Small entity-fee \$ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
(Paid on August 29, 2006)
- ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of REPLY TO MISSING PARTS (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

Date _____

John W. Olivo, Jr.

35.634

Typed or printed name

Registration Number, if applicable

382 Springfield Avenue

(908) 277-3333

Address

Telephone Number

Summit, New Jersey 07901

Address

Enclosures: ☒ Fee Payment

☒ Reply☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☒ Other: Cover Letter, Declaration, Reply to Missing Parts, Return Receipt Postcard

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

11/12/2007
Date

Melissa Nardone
Signature

Melissa Nardone

Typed or printed name of person signing certificate



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Diane Nerby Group Art Unit: 2171
Serial No.: 10/678,048 Examiner: TBD
Filed: October 2, 2003 Atty. Doc. No.: 927-001
For: ONLINE EMPLOYEE ASSESSMENT AND MANAGEMENT PERFORMANCE
SYSTEM AND METHOD

Mail Stop Petition
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COVER LETTER

Petition Under 37 C.F.R. 1.137(b)

Enclosed is a petition for revival of an application in support of a petition under 37 C.F.R. § 1.137(b) for unintentional delay in responding to the November 18, 2004 Notice of Missing Parts. The petition fee is enclosed herein.

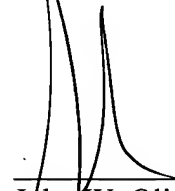
Should any changes to the petition be deemed necessary to place the application in condition for allowance, the Commissioner is respectfully requested to contact the undersigned to discuss the same.

This Petition is believed to be timely filed. If a petition for extension of time and/or any other fees are required, the Patent and Trademark Office is specifically authorized to charge

such fee to Deposit Account No. 23-0420 in the name of Ward & Olivo.

Date: November 12, 2007

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "John W. Olivo, Jr.", written over a horizontal line.

John W. Olivo, Jr.
Reg. No. 35,634
Ward & Olivo
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Summit, NJ 07901
908-277-3333